

## § 217.11

## 36 CFR Ch. II (7–1–97 Edition)

(3) Provide a written justification of the need for a stay, which at a minimum includes the following:

(i) A description of the specific project(s), activity(ies), or action(s) to be stopped.

(ii) Specific reasons why the stay should be granted in sufficient detail to permit the Reviewing Officer to evaluate and rule upon the stay request, including at a minimum:

(A) The specific adverse effect(s) upon the requester;

(B) Harmful site-specific impacts or effects on resources in the area affected by the activity(ies) to be stopped; and

(C) How the cited effects and impacts would prevent a meaningful decision on the merits.

(e) The Reviewing Officer shall rule on stay requests within 10 days of receipt of a request.

(f) In deciding a stay request, a Reviewing Officer shall consider:

(1) Information provided by the requester pursuant to paragraph (c) of this section;

(2) The effect that granting a stay would have on preserving a meaningful appeal on the merits;

(3) Any information provided by the Deciding Officer or other party to the appeal in response to the stay request; and

(4) Any other factors the Reviewing Officer considers relevant to the decision.

(g) A Reviewing Officer must issue a written decision on a stay request.

(1) If a stay is granted, the stay shall specify the specific activities to be stopped, duration of the stay, and reasons for granting the stay.

(2) If a stay is denied in whole or in part, the decision shall specify the reasons for the denial.

(3) A copy of a decision on a stay request shall be sent to the appellant(s), intervenor(s), and the Deciding Officer.

(h) A decision may be implemented during a review unless the Reviewing Officer has granted a stay.

(i) A Reviewing Officer's decision on a request to stay implementation of a project or activity included in a Land and Resource Management Plan or significant amendment or revision to the

plan is not subject to discretionary review at the next administrative level.

[54 FR 3357, Jan. 23, 1989, as amended at 55 FR 7896, Mar. 6, 1990; 56 FR 4918, Feb. 6, 1991; 58 FR 58916, Nov. 4, 1993]

### § 217.11 Dismissal without review.

(a) A Reviewing Officer shall dismiss an appeal and close the appeal record without decision on the merits when:

(1) The notice is not filed within the time specified in § 217.8 of this part;

(2) The requested relief or change cannot be granted under law, fact, or regulation existing when the decision was made.

(3) The notice of appeal fails to meet the minimum requirements of § 217.9 of this part to such an extent that the Reviewing Officer lacks adequate information on which to base a decision;

(4) The decision at issue is being appealed under another administrative proceeding;

(5) The decision is excluded from appeal pursuant to § 217.4 of this part;

(6) The appellant(s) withdraws the appeal;

(7) The Deciding Officer withdraws the appealed decision; or

(8) The Chief has invoked the provisions of § 217.18 of this part.

(b) The Reviewing Officer shall give written notice of a dismissal to all participants that includes an explanation of why the appeal is dismissed.

(c) A Reviewing Officer's dismissal decision is subject to discretionary review at the next administrative level as provided for in § 217.7(d) of this part, except when a dismissal decision results from withdrawal of an appeal by an appellant or withdrawal of the initial decision by the Deciding Officer.

[54 FR 3357, Jan. 23, 1989, as amended at 55 FR 7896, Mar. 6, 1990; 56 FR 4918, Feb. 6, 1991]

### § 217.12 Resolution of issues.

(a) When a decision is appealed, appellants or intervenors may request meetings with the Deciding Officer to discuss the appeal, either together or separately, to narrow issues, agree on facts, and explore opportunities to resolve the issues by means other than review and decision on the appeal. Reviewing Officers may, on their own initiative, request the Deciding Officer to meet with participants to discuss the